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PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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RECEIVED

16 MAR 2004

RECKITT BENCKISER
GROUP PATENTS DEPT

TO: *OMB 17/3* *KH*
TO: *12043* **PCT**
AS: NUMBER
110804 CB NO
WRITTEN OPINION
(PCT Rule 66) *KH*
17/6/3 *CA* *KH*

Date of mailing
(day/month/year) 11.03.2004

Applicant's or agent's file reference

REPLY DEADLINE **within 3 month(s)**
from the above date of mailing

International application No.

PCT/GB 03/02795

International filing date (day/month/year)

30.06.2003

Priority date (day/month/year)

28.06.2002

International Patent Classification (IPC) or both national classification and IPC

C11D3/00, C11D3/00

Applicant

RECKITT BENCKISER N.V. et al

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is:

Name and mailing address of the international preliminary examining authority:



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Authorized Officer

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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-20 as originally filed

Claims, Numbers

1-30 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been and will not be examined in respect of:

☐ the entire international application,

☒ claims Nos. 1 (in part), 2, 3

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1 (in part), 2, 3 are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

☒ the claims, or said claims Nos. 1 (in part), 2, 3 are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the said claims Nos. 1 (in part), 2, 3

2. A written opinion cannot be drawn due to the failure of the nucleotide and/or amino acid sequence listing to comply with the Standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1,27,30
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Inventive step (IS)	Claims	4-26,29
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Industrial applicability (IA)	Claims	
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2. Citations and explanations

see separate sheet

Re Item III**Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

1. Present claims 1-3 relate to a product defined by reference to a desirable characteristic, namely the enzyme particle migration speed in the gel of less than 1 cm per month.

The claims cover all products having this characteristic, whereas the application provides support within the meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT for only a very limited number of such products. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful examination over the whole of the claimed scope is impossible.

Independent of the above reasoning, the claims also lack clarity (Article 6 PCT). An attempt is made to define the product by reference to a result to be achieved. Again, this lack of clarity in the present case is such as to render a meaningful examination over the whole of the claimed scope impossible.

Consequently, the search has been carried out for those parts of the claims which appear to be clear, supported and disclosed, namely detergent compositions in gel form comprising an enzyme encapsulated within water-soluble particles, as defined in claims 1 (in part) and 4-30, as well as the examples.

Re Item V**Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Reference is made to the following documents :

D1: WO-A-01/38471

D2a: WPI Abstract Number 1988-165838

D2b: JP-A-63105098

2. Novelty (Article 33(2) PCT)

2.1 D1 discloses (cf. claims 8 and 9) laundry detergent compositions which are in liquid or gel form, containing enzymes which are microencapsulated in a water-soluble starch.

D1 is therefore novelty-destroying with respect to the subject-matter of claims 1, 27 and 30.

2.2 D2a discloses liquid or gel detergent compositions containing PVA-coated enzymes and is therefore novelty-destroying with respect to the subject-matter of claim 1.

2.3 The Applicant may find it useful to submit an English language translation of D2b to the International Examining Authority so that a full assessment of its relevance to the novelty of claims 1-27 and 30 can be made.

2.4 The subject-matter of claims 1, 27 and 30 is therefore not new.

3. Inventive Step (Article 33(3) PCT)

3.1 In dependent claims 4-26 and 29 slight changes in the composition of claim 1 are defined which come within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. Consequently, the subject-matter of claims 4-26 and 29 also lack an inventive step.

3.2 The subject-matter of claim 28 does, however, appear to be both novel and inventive.